

1

Issued by the
UNITED STATES DISTRICT COURT

DISTRICT OF New Jersey

**BOSTON SCIENTIFIC CORPORATION and
BOSTON SCIENTIFIC SCIMED, INC.**
V.
CONOR MEDSYSTEMS, INC.

SUBPOENA IN A CIVIL CASE

Case Number:¹
Civil Action No. 05-768 (SLR)
District of Delaware

TO: **Johnson & Johnson**
One Johnson & Johnson Plaza
New Brunswick, NJ 08933

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION Hyatt Regency — 2 Albany Street, New Brunswick, NJ 08901 See Schedule A.	DATE AND TIME February 13, 2007 at 10:00a
---	---

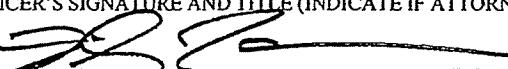
YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
	February 2, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

**Timothy K. Gilman, Kirkland & Ellis LLP, 153 East 53rd Street, New York, NY 10022
(212) 446-4800**

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

SCHEDULE A

TOPICS OF EXAMINATION

TOPIC NO. 1:

The design history of the FDA-approved Bx Velocity stent, including all design iterations and prototypes.

TOPIC NO. 2:

The performance and attributes of the Bx Velocity stent design iterations and prototypes.

TOPIC NO. 3:

The performance and attributes of the FDA-approved Bx Velocity stent and how they compare to the performance and attributes of any Bx Velocity design iteration or prototype.

TOPIC NO. 4:

Cordis' decision to seek to commercialize the design of the Bx Velocity stent that was later approved by the FDA, including the reasons for Cordis' decision.

TOPIC NO. 5:

The performance and attributes of the BX stent and how they compare to the performance and attributes of the FDA-approved Bx Velocity stent.

TOPIC NO. 6:

Cordis' decision not to seek to commercialize the BX stent, including the reason for Cordis' decision.

TOPIC NO. 7:

The authenticity of the documents attached hereto as Exhibit A and whether they were kept in the ordinary course of business.

DEFINITIONS

1. As used herein, "Cordis" shall mean Cordis Corporation and all of its corporate parents, corporate predecessors and past or present subsidiaries, affiliates, divisions, departments, officers, directors, principals, agents and employees.
2. As used herein, "Bx Velocity stent" shall mean any stent made, used, sold, offered for sale, or imported into the United States by Cordis in which the words "Bx Velocity" constitute all or part of the trademark or name, including any commercial, developmental, working or non-working model, or any prototype of any of the foregoing.
3. As used herein, "BX stent" shall mean the stent designed by Isostent and described in, for example, Chapter 21 of *The Handbook of Coronary Stents* (2d edition 1998), including any commercial, developmental, working or non-working model, or any prototype of any of the foregoing.
4. As used herein, "include" and "including" shall be construed to mean "without limitation," so as to acquire the broadest meaning possible.

EXHIBIT A

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING

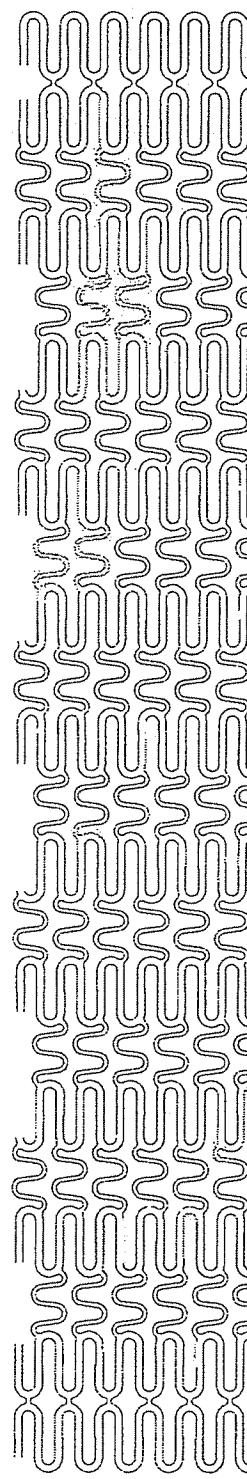
A vertical decorative border pattern consisting of a repeating geometric motif of stylized, rounded, and interconnected shapes, possibly a stylized floral or geometric design, rendered in a light color on a dark background.

LENGTH = 27 mm

CONFIDENTIAL

BSC-C 0168824

CONFIDENTIAL

Stent Parameters		ZONE	REV	DESCRIPTION	REVISIONS	DATE	APPROVED
Stent width	1.0 mm						
Stent height	0.5 mm						
Stent wall thickness	5 mil						
							
275 mm long							
THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING							
CONFIDENTIAL							
DRAWN BY: D. G. F. S. M. A. G.	SPECIFIED BY: D. G. F. S. M. A. G.	APPROVED BY: NAME: _____	DATE: _____	FINISH: ELECTROPOLISHED	SIZE: .006 wall	VM: 31A	FILE NAME: A
DATE: 7/15/98	DATE: 7/15/98	DATE APPROVED: _____	DATE: _____	NEXT ASSY: XXX	SCALE: XXX	DATE: _____	PART NUMBER: PN XXXXXXXX
REV A							

BS-C 0168826

HIGHLY
CONFIDENTIAL

BSG-C 0168826

BS-C 0168827

HIGHLY
CONFIDENTIAL

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING

DRAWN BY		CHECKED BY		APPROVED BY		MATERIAL		BXMINT... F A R L Y D F	
F. J. F. C. (Signature)		F. J. F. C. (Signature)		F. J. F. C. (Signature)		DAD 6 x 665 wall 316L		FILE NAME	
DATE		DATE		DATE		SIZE		PART NUMBER	
						A		0027558	
						ELECTROPOLISHED			

Stent Parameters	TIME	REV	DESCRIPTION	REVIEWS	DATE	APPROVED
5 mil wall thickness						6/26/05
5 mil wall thickness						6/26/05

Stent Parameters	ZONE	REV	DESCRIPTION	DATE	APPROVED
5 mil wall thickness					

5 mil wall thickness

91 mm long

138 mm long

186 mm long

232 mm long

281 mm Long

57 mil DD (58 mil DD Tubing)

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING

UNLESS OTHERWISE SPECIFIED
DIMENSIONS ARE IN MM
TOLERANCES ARE
XX = 1.00
+0.000, -0.000
XX = 1.000
+0.000, -0.000
FUNCTION = 11/12^o
ANGULAR = 11/12^o
MATERIAL = 0.016" x 0.06" wall 316L VM
FINISH = ELECTROPOLISHED
NEXT ASSY = DATE APPROVED

BX MEDIUM FAMILY OF STENTS

REVISIONS

DATE 6/15/98

APPROVED BY: *[Signature]*
DATE: *[Signature]*

CHECKED BY: *[Signature]*
DATE: *[Signature]*

CONFIDENTIAL

BSC-C 0168829

HIGHLY
CONFIDENTIAL

BSC-C 0168830

HIGHLY
CONFIDENTIAL

Stent Parameters	ZONE	REV	DESCRIPTION	REVISION	DATE	APPROVED
5 mil wall thickness						

75 mil ID (0.601D x 7 mil wall tubing)



9.1 mil long

13.8 mil long

18.6 mil long

23.2 mil long

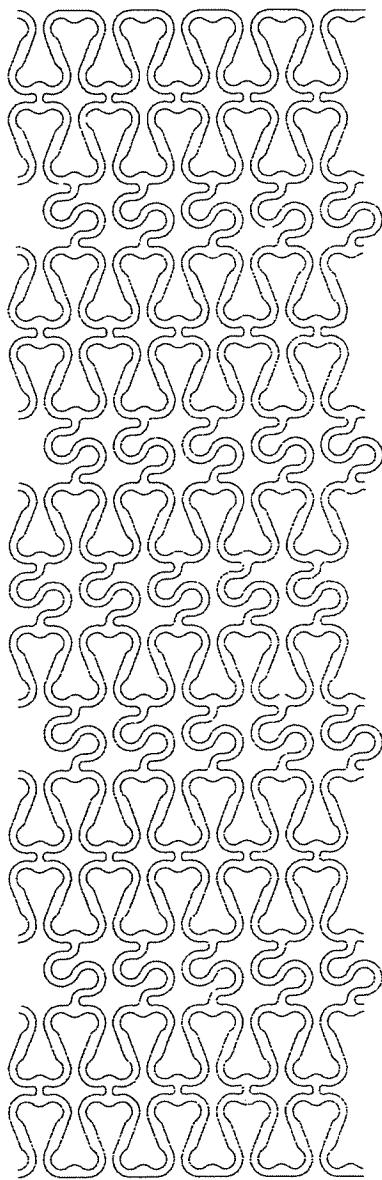
28.1 mil long

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING

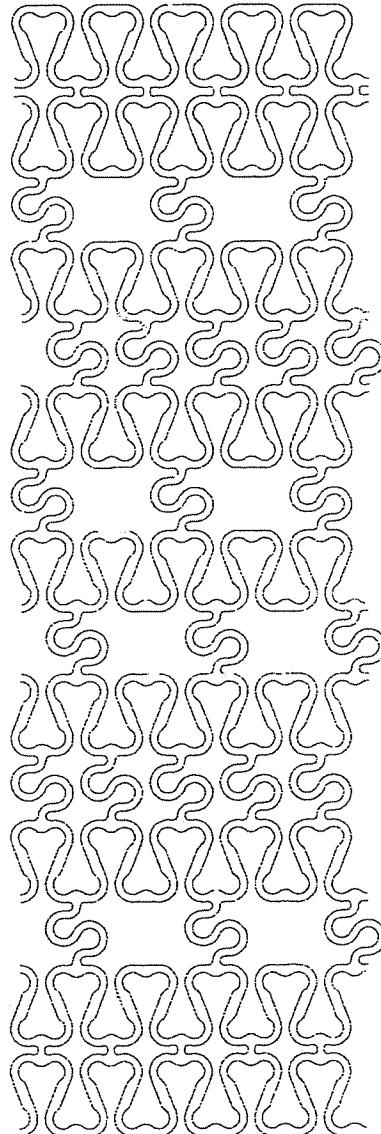
VALUES OTHERWISE SPECIFIED		VALUES SPECIFIED IN THIS DRAWING		VALUES SPECIFIED IN THE STENT DESIGN	
DISPERSION IN LENGTH	1 mil	DISPERSION IN LENGTH	1 mil	DISPERSION IN LENGTH	1 mil
DISPERSION IN DIAMETER	1 mil	DISPERSION IN DIAMETER	1 mil	DISPERSION IN DIAMETER	1 mil
WALL THICKNESS	5 mil	WALL THICKNESS	5 mil	WALL THICKNESS	5 mil
XX	1.00	XX	1.00	XX	1.00
XXXX	1.0000	XXXX	1.0000	XXXX	1.0000
FRACTION	1/12	FRACTION	1/12	FRACTION	1/12
MANUFACTURER		MANUFACTURER		MANUFACTURER	
MAXI A	0.316 mil ID x 0.316 mil OD	MAXI A	0.316 mil ID x 0.316 mil OD	MAXI A	0.316 mil ID x 0.316 mil OD
STENT		STENT		STENT	
APPROVED BY	NAME	SIZE	FILE NAME	PART NUMBER	REV
checked by					
21 F. Fergen	DATE	ELECTROPOLISHED	AS	00000000000000000000000000000000	
2006-02-15		NEXT ASS	SCALE	XX	DATE
					SHEET

CONFIDENTIAL

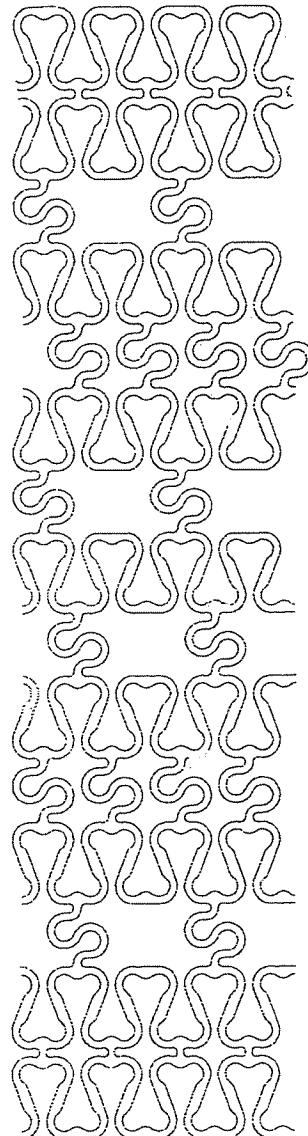
CURRENT BX



BX ULTRAFLEX5



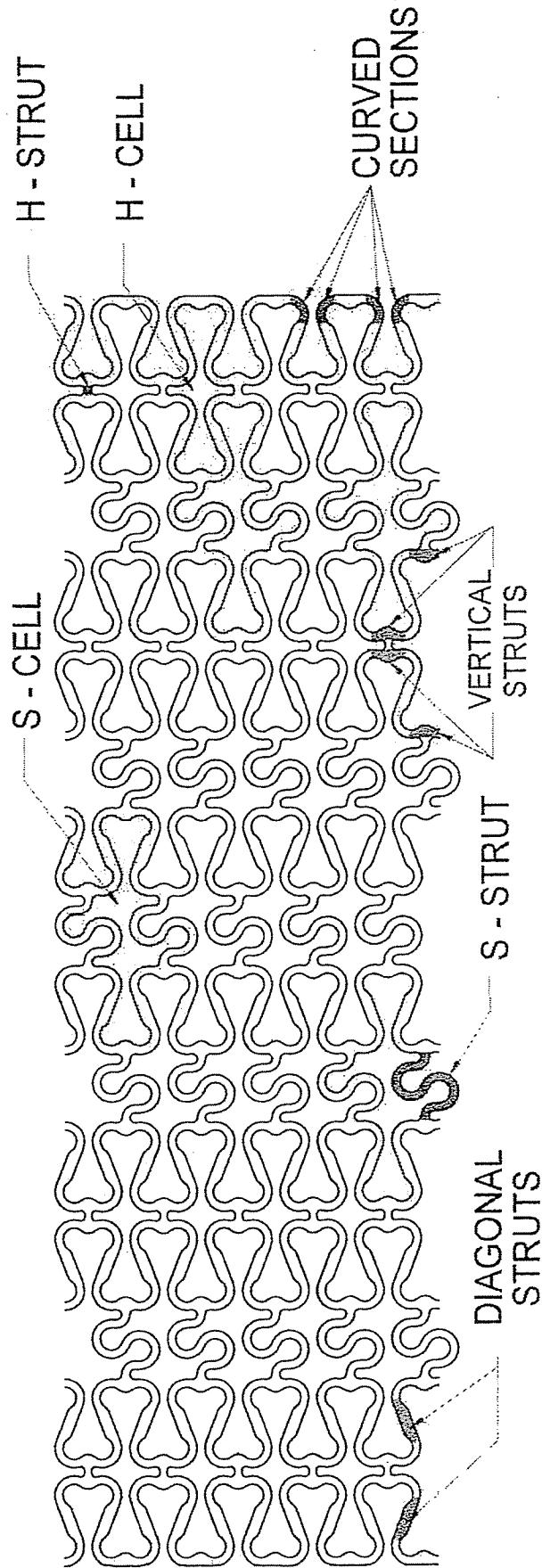
BX ULTRAFLEX4



BSC-C 016831

HIGHLY
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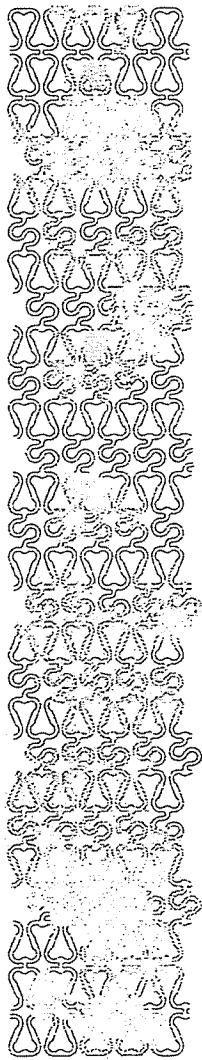
PRE - DEPLOYED BX STENT
(15 mm Long)



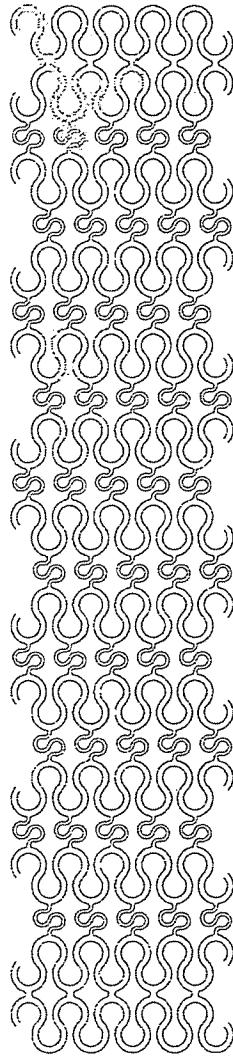
BSC-C 0168832

HIGHLY
CONFIDENTIAL

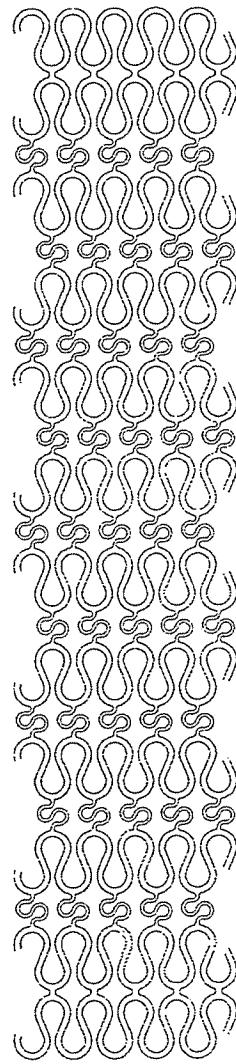
BX-MB25



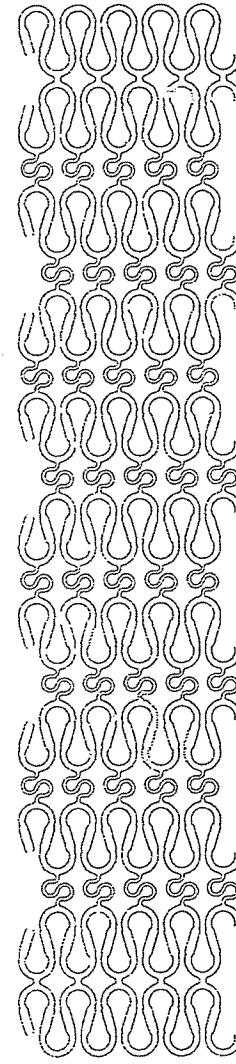
BX OMNI_C



BX OMNI_B



BX OMNI_A



SSC-C 0168833

HIGHLY
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ZONE	REV	DESCRIPTION	REVISIONS	DATE	APPROVED
1.031"					
<p>CONFIDENTIAL</p> <p>THIS DRAWING AND THE INFORMATION SET FORTH HEREIN ARE THE PROPERTY OF FISCHELL INC. AND ARE TO BE HELD IN TRUST AND CONFIDENCE, NOT PUBLISHED, DISCLOSED, OR USED FOR ANY PURPOSE NOT EXPRESSLY AUTHORIZED IN WRITING BY FISCHELL BIOMEDICAL LLC. DRAWING BY D. R. Fischell DATE March 16, 1998</p> <p>APPROVED BY D. R. Fischell DATE March 16, 1998</p> <p>UNLESS OTHERWISE SPECIFIED, DIMENSIONS ARE IN INCH AND TOLERANCES ARE ± 0.01</p> <p>XX ± 0.001 XXX ± 0.005 XXXX ± 0.015 FRACTION $\pm 1/32$ ABULAR $\pm 1/2^{\circ}$</p> <p>MATERIAL VM SS. 006500/00064W FINISH ELECTROPOLISHED NEXT ASSY</p> <p>SCALE $\frac{1}{16}$ FILE NAME bxomni_bskd PART NUMBER PN xxxxxxxxx REV K C25-12X5_B DATE March 16, 1998 SHEET 1 HIGHLY CONFIDENTIAL</p>					

Stent Parameters

the 19th of May, 1861, and the 20th of May, 1861, the
Confederate forces under General Lee, and the
Union forces under General McClellan, met at
Manassas, Virginia, and fought a battle, in which
the Confederates were victorious.

ZONE	REV	DESCRIPTION	REVISIONS	DATE	APPROVED

APPENDIX D

DESCRIPTION

ZONE REV

0.226" Circumference

LENGTHS/mm

THIS DRAWING REFLECTS DIMENSIONS AFTER EFFECTS PUBLISHING

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DRAWN BY
D. K. MCGOWAN
DATE 10/20/1998

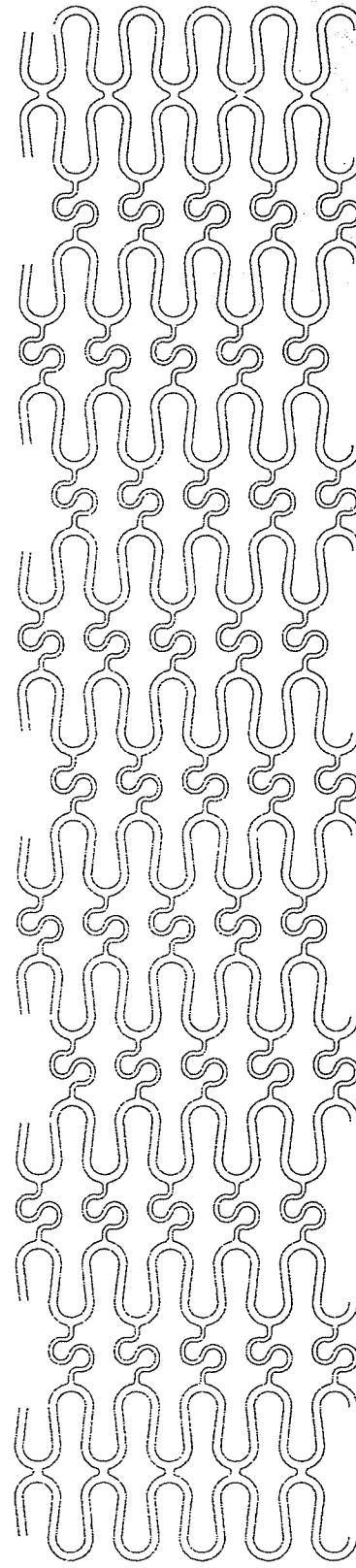
APPROVED BY *W. W. W.* MATERIAL *316L VM SS, 0.074" OD X 0.007" TW* FINISHED *TO TOLERANCE*

REVIEWED BY: _____
PART NUMBER: 13X3-
PIN: XXXXXXXXX

PSC-C 0168835

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Length = 271mm

0256 Circumference
072 mil ID

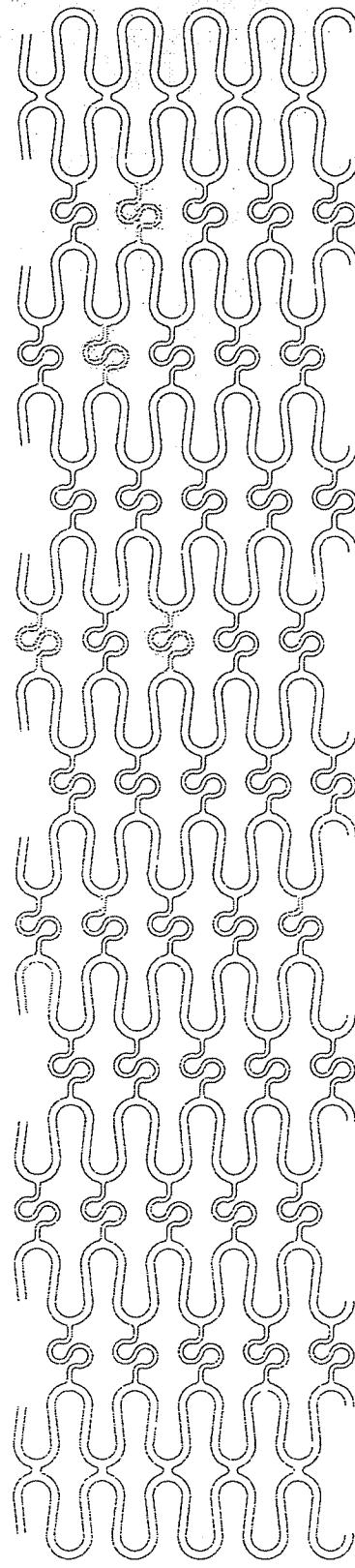
ZONE	REV	DESCRIPTION	REVISIONS	DATE	APPROVED

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DRAWN BY: K. J. K. DATE: APRIL 23, 1998	CHECKED BY: APPROVED BY: NAME: DATE: APPROVED	FINISH: ELECTROPOLISHED	SCALE: XXX	DATE: HIGHLY CONFIDENTIAL	SHEET: BSC-C-0168836

CONFIDENTIAL

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOOLISHING

ZONE	REV	DESCRIPTION	REVISIONS	DATE	APPROVED
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Length = 271mm

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DRAWN BY
R. E. *[Signature]*
DATE: April 22, 1998

CHECKED BY

APPROVED BY

NAME

DATE

NEXT ASSY

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HELD IN TRUST AND CONFIDENCE
PUBLICATION, DUPLICATION, DISCLOSURE
OR USE FOR ANY PURPOSE NOT
EXPRESSLY AUTHORIZED IN WRITING
BY CERDIS IS PROHIBITED
MATERIAL: 304 SS. 0.074" DIA. INGOT
DIGE: 1" (1/16") ELECTROPOOLISHED

UNLESS OTHERWISE SPECIFIED
DIMENSIONS ARE IN INCH
AND TOLERANCES ARE
XX = ± 1.01
XXX = ± 0.001
XXXX = ± 0.0005
FRACTION = $\frac{1}{16}$
ANGULAR = ± 1° 2'

FILE NUMBER: 1A
DRAWN BY: R. E. *[Signature]*
DATE: April 22, 1998

SIZE: FILE NAME: PART NUMBER: PN: *XXXXXXXXXX*

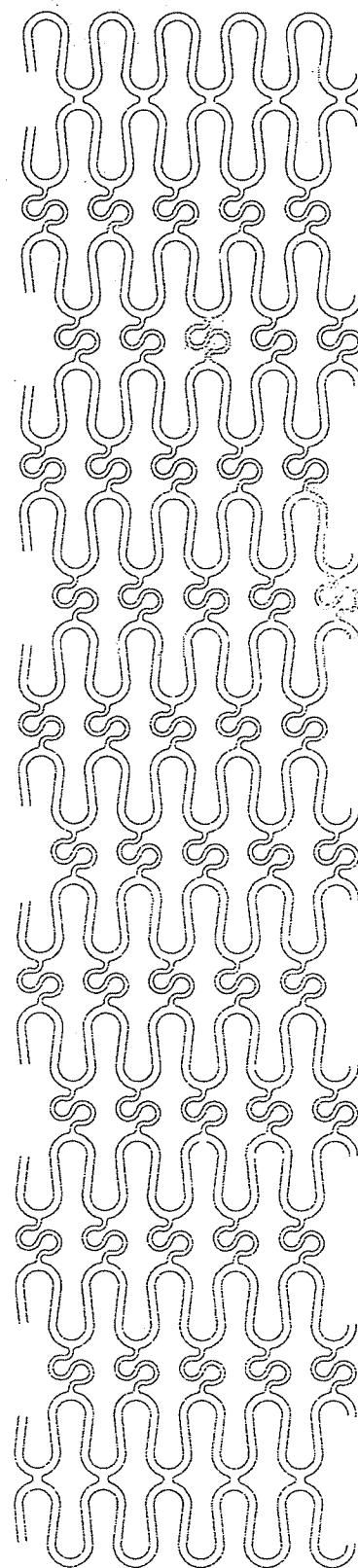
REV: A
SHEET: 1

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BS-C 0168837

Sternt Parameters

REV	ZINE	REVISIONS	DESCRIPTION	DATE	APPROVED



0.256" Circumference
C72 All D2

Length = 271mm

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UNLESS OTHERWISE SPECIFIED
DIMENSIONS ARE IN INCH
AND TOLERANCES ARE
XX $\pm .01$
XXX $\pm .001$
XXXX $\pm .0005$
FRACTION = $\pm 1/32$
ANGULAR = $\pm 1/2^\circ$
6x CORDS = 1/16" I.D.

MATERIAL

316L V4A 0.074" DIA. 0.05" TW

APPROVED BY
NAME: CLEOPATRA SHELDON
DATE: APRIL 22, 1998
DATE APPROVED: DATE ASSY:

SIZE: FILE NAME: PART NUMBER:
A PN xxxxxxxxx

DATE: HIGHLY
CONFIDENTIAL

REVISION
A
SHEET
BSG-C 0168838

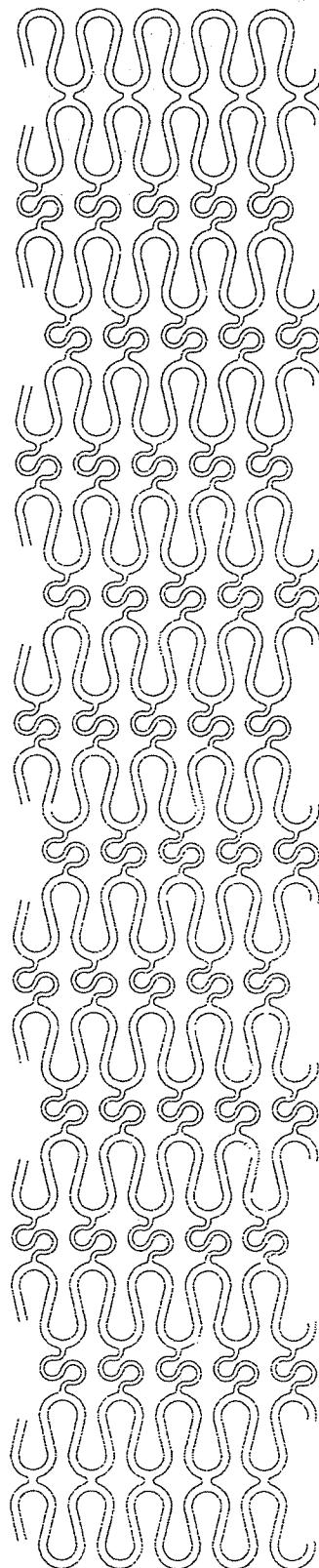
Stent Parameters

Parameter	Value	Unit
Stent Length	27.1	mm
Stent Width	1.3	mm
Stent Thickness	0.063	mm
Stent Wall Thickness	0.015	mm
Stent Pitch	0.063	mm
Stent Bend Radius	0.063	mm
Stent Bend Angle	90	deg

0063

0063

0198" Circumference



Length = 27.1 mm

THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING

UNLESS OTHERWISE SPECIFIED, DIMENSIONS ARE IN INCH AND TOLERANCES ARE ± 0.01 .
 XXX = ± 0.001
 XXXX = ± 0.0005
 FRACTION = $\pm 1/32$
 ANGULAR = $\pm 1/2^\circ$

MATERIAL: JIG6 VM 75.0074'DP/000774

FINISH: ELECTROPOLISHED

SIZE: 13 X 5.5

MATERIAL: A

PART NUMBER: PN XXXXXXXXX

REVIEW
A

DRAWN BY	CHECKED BY	APPROVED BY	NAME	DATE	DATE APPROVED	NAME ASSY	SCALE	1:1	SPC#	HIGHLY	REF ID
John Doe				April 29, 1998			XXX	1:1			BSC-C-0168839

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THIS DRAWING REFLECTS DIMENSIONS AFTER ELECTROPOLISHING

A vertical decorative border pattern featuring a repeating geometric motif of stylized, symmetrical shapes resembling stylized 'S' or 'Q' forms, arranged in a grid-like fashion. The pattern is composed of thin, dark lines on a white background, creating a sense of depth and texture. The motifs are interconnected, forming a continuous vertical border.

$$\text{Length} = 27 \text{ mm}$$

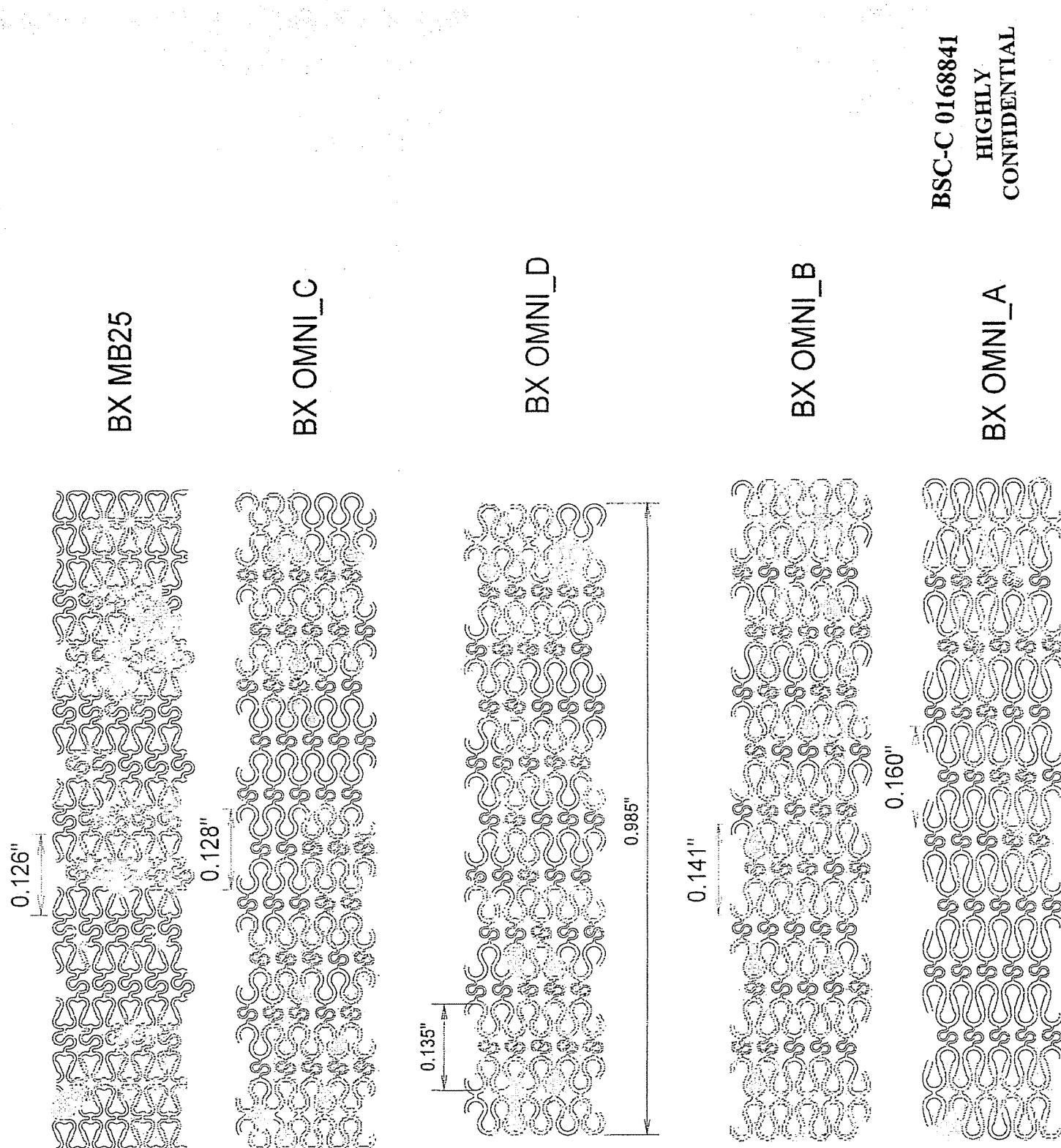
CONFIDENTIAL

DRAWN BY J. G. F. G. (cont'd) CHECKED DATE Aug 20 1998

APPROVED BY NAME	DATE APPROVED	INITIAL ASSY	DATE	SCALE	SIZE	FILE NAME	PART NUMBER	REV A
316L VM SS. 00741D/0 BH7714	FINISH: ELECTROPOLISHED	NEUT ASSY	10/25/01	XXX	A	C25F.DXF	PN 4X5,XXXXXX	
						SHEET 1		HIGHLY CONFIDENTIAL

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RECORDED - 2007 FEB 09 AM 09:45
RECORDED - 2007 FEB 09 AM 09:45



BSC-C 0168841
HIGHLY
CONFIDENTIAL

Stent Parameters				REVISIONS	DATE	APPROVED
	ZONE	REV	DESCRIPTION			

System Parameters

Stent Parameter

0226" Circumference

$$\text{Length} = 271 \text{ mm}$$

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USE FOR ANY PURPOSE NOT
EXCLUSIVELY AUTHORIZED IN WRITING
BY CHARTS IS EXPRESSLY PROHIBITED.

CONFIDENTIAL

DRAWN BY
J. R. FISHER, JR.
DATE:

APPROVED BY NAME FINISH 3

.....
PAR# NUMBER: PN
SIZE: FULL NAME

.....
PART NUMBER: PN
SIZE: FULL NAME

FINISH: ELECTROPOW. ISM. 316L VIM SS 00740D/000740

APPROVED BY NAME

LELAND 64.

卷之三

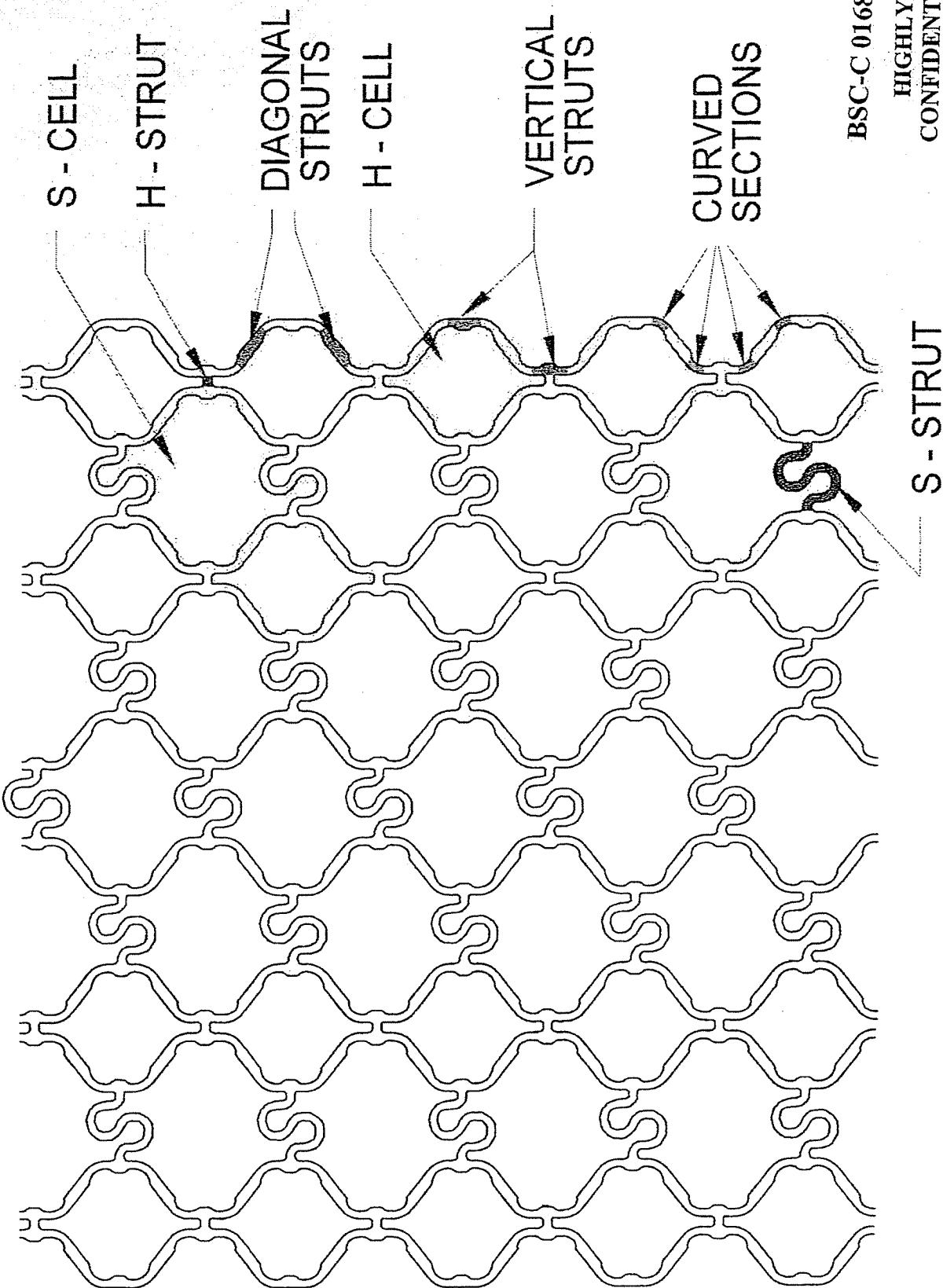
REV.

-BSC-C-01-68842

CONFIDENTIAL

DEPLOYED BX STENT

(15 mm Long)



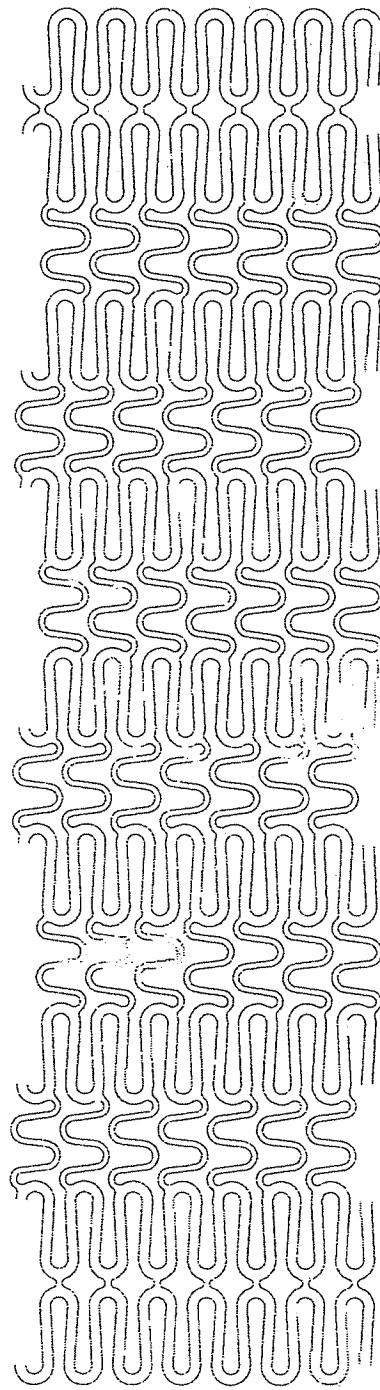
BSC-C 0168843
HIGHLY
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Stent Parameters

7/15/98
R. Steltz

5 mil wall thickness

5 mil thickness



181 mm long

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SET FORTH HEREIN ARE THE PROPERTY
OF CUREX, AND ARE TO BE
HOLD IN TRUST AND CONFIDENTIAL
PUBLICATION, REPLICATION, DISSEMINATION
OR USE FOR ANY PURPOSE, NO;
EXCEPTUALLY AUTHORIZED IN WRITING
BY CUREX IS PROHIBITED

CONFIDENTIAL

 DRAWN BY R. Steltz
 DATE 7/15/98

 APPROVED BY NAME
 DATE APPROVED

 FINISH ELECTROPLATED
 DATE ASSY

 SCALE XXX
 DATE

 REV A
 PN XXXXXXXX
 SHEET 118

BSC-C 0168844
**HIGHLY
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